



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	HB0388	Title:	Impose oil and gas surtax for quality educator energy for education payment
Primary Sponsor:	Van Dyk, Kendall	Status:	As Introduced

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input checked="" type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$300,000	\$1,522,217	\$1,849,537	\$1,849,537
State Special Revenue	\$0	\$31,437,715	\$38,197,742	\$38,197,742
Revenue:				
General Fund	\$0	\$1,313,791	\$1,596,294	\$1,596,294
State Special Revenue	\$31,280,730	\$38,007,000	\$38,007,000	\$38,007,000
Other (Pension Trust)	\$0	\$559,633	\$679,970	\$679,970
Net Impact-General Fund Balance:	<u>(\$300,000)</u>	<u>(\$208,426)</u>	<u>(\$253,243)</u>	<u>(\$253,243)</u>

Description of fiscal impact: HB 388 would provide a statutory appropriation of \$31.3 million state special revenue in FY 2011 and \$38.0 million in subsequent years for quality educator energy for education payments to school districts.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

- Under current law, the oil and natural gas production tax is based on a percentage of the value of production, with varying rates, depending on type of production. The tax is calculated and paid on a calendar quarter basis.

2. Section one of this bill adds a surtax of \$1 per barrel of oil and \$0.08 per thousand cubic feet of natural gas after September 1, 2009. The surtax is to be administered in a manner similar to the other oil and natural gas production taxes.
3. Section 1(5) of this bill provides that the surtax collected is to be deposited in an account in the state special revenue fund to be used for quality educator payments provided for in section two of this bill. Late payment interest and penalties are not mentioned. (See assumption 5 and technical note 1.)
4. Interest and income earned on the account must be deposited in the account.
5. Section 1(6) of this bill directs the Department of Revenue to report to the Office of Budget and Program Planning, on or before November 1 of each year, the amount of surtax, late payment interest, and penalties that were collected during the prior fiscal year.
6. Section 1(7) of this bill provides that, on or before November 15 of each year, 4.2% of the revenues collected under section 1(6) of this bill are to be transferred to the state general fund.
7. Section 1(8) of this bill provides for a statutory appropriation of the remaining amount of the revenues collected under section 1(6) to the agencies and institutions listed in section two of this bill.
8. The following table shows the calculation of the estimated revenue impacts of this bill. Forecasts of FY 2010 and FY 2011 production for oil and natural gas are taken from HJR 2. For purposes of this fiscal note, production in FY 2012 and FY 2013 is assumed to be the same as in FY 2012.

ESTIMATES OF REVENUES GENERATED BY SURTAX ON OIL AND NATURAL GAS

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012*</u>	<u>FY 2013*</u>
OIL				
HJR 2 forecast production (barrels)	31,803,000	28,417,000	28,417,000	28,417,000
Number of quarters subject to surtax	3	4	4	4
Barrels subject to surtax	23,852,250	28,417,000	28,417,000	28,417,000
Surtax per barrel	\$1	\$1	\$1	\$1
Total oil surtax collection	\$23,852,250	\$28,417,000	\$28,417,000	\$28,417,000
NATURAL GAS				
HJR 2 forecast production (MCF)	123,808,000	119,875,000	119,875,000	119,875,000
Number of quarters with surtax	3	4	4	4
MCF subject to surtax	92,856,000	119,875,000	119,875,000	119,875,000
Surtax per MCF	\$0.08	\$0.08	\$0.08	\$0.08
Total natural gas surtax collection	\$7,428,480	\$9,590,000	\$9,590,000	\$9,590,000
TOTAL SURTAX COLLECTION	\$31,280,730	\$38,007,000	\$38,007,000	\$38,007,000
State general fund revenue @ 4.2%	\$1,313,791	\$1,596,294	\$1,596,294	\$1,596,294
Quality educator energy for education	\$29,966,939	\$36,410,706	\$36,410,706	\$36,410,706

* There are no HJR 2 production forecasts for FY 2012 and FY 2013. Production for these years is assumed to be the same as FY 2011.

9. Section five of this bill has an effective date of July 1, 2010 for all other sections of this bill.

10. This bill will require modifications to the GenTax computer system for development of the new surtax. These modifications are not covered by the maintenance contract for the system. These modifications need to be completed before September 30, 2009. The Department of Revenue estimates operating costs of these modifications at \$300,000.

Office of Public Instruction

11. The surtax revenues not deposited in the state general fund are to be distributed to the eligible entities, the Office of Public Instruction, the Montana school for the deaf and blind, the department of corrections, and the department of military affairs for payment to entities entitled to receive a quality educator payment under 20-9-327.
12. These revenues may not be considered part of a school district's BASE budget as defined in 20-9-306, MCA.
13. The number of FTE generating the quality educator payments for the various entities in this bill is estimated to be:

	<u>FTE</u>
K-12	12,590
School for the Deaf and Blind	41
Corrections	20
MT Youth Challenge	<u>5</u>
Total FTE	12,656

14. HB 388 requires a distribution of a portion of the revenue generated be distributed to the quality educator payment in 20-9-327, MCA. The distribution would be approximately \$2,365 per FTE in FY 2011 and \$2,875 per FTE in FY 2012 and subsequent years based on the revenue estimates in this fiscal note.
15. It is estimated there will be additional school district general fund retirement costs. The increased retirement expense is estimated by determining the amount of increase distributed to schools multiplied by the percentage of the general fund budget that is typically used for salaries (75% salaries) to determine the increase to salaries associated with this bill.
16. Estimated benefit rate is 15% based upon FY 2008 employer contribution rates:

	<u>Certified Staff</u>	<u>Classified Staff</u>
TRS	7.47%	
PERS		6.90%
FICA	6.20%	6.20%
Medicare	1.45%	1.45%
Unemployment	0.02%	0.02%
Totals	15.14%	14.57%

17. Based on budget data from FY 2008, on the marginal, the state pays retirement guaranteed tax base aid (GTB) of approximately 28% of countywide retirement tax levy.
18. Estimated cost to the state and county for teacher retirement related to additional funding school districts receive due to this bill:

Fiscal Year	Estimated Additional Salaries	Estimated Benefit Rate	Retirement Cost	State Share	County Share
2010	\$0	15%	\$0	\$0	\$0
2011	\$22,357,998	15%	\$3,353,700	\$939,036	\$2,414,664
2012	\$27,166,073	15%	\$4,074,911	\$1,140,975	\$2,933,936
2013	\$27,166,073	15%	\$4,074,911	\$1,140,975	\$2,933,936

19. It is estimated that state retirement GTB costs will increase by \$0.9 million in FY 2011 and \$1.1 million in following years.

Department of Administration

20. Two statutory appropriations are impacted by this bill. 19-20-604, MCA, requires 0.11% and 19-20-607, MCA, requires 2.38% of teachers salaries to be contributed by the state general fund to the Teachers Retirement System (TRS) to provide additional employees' share of retirement to fund the actuarial shortfall. The cost to the state general fund is 2.49% (2.38% + 0.11%) of local salaries shown in the following table.

	<u>Rate</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
Salaries		\$0	\$22,475,204	\$27,308,030	\$27,308,030
19-20-604, MCA	0.11%	\$0	\$24,723	\$30,039	\$30,039
19-20-607, MCA	2.38%	\$0	\$534,910	\$649,931	\$649,931
Total TRS costs		\$0	\$559,633	\$679,970	\$679,970

Montana School for the Deaf and Blind, Corrections, and Department of Military Affairs

21. SB 388 includes the Montana School for the Deaf and Blind, Corrections at Pine Hills and Riverside, and Department of Military Affairs for the Montana Youth Challenge Program as some of the recipients of funding created by the bill.

		FY 2010	FY 2011	FY 2012	FY 2013
		Increase	Increase	Increase	Increase
		Educator	Educator	Educator	Educator
		Payment	Payment	Payment	Payment
		(Includes	(Includes	(Includes	(Includes
	FTE	retirement)	retirement)	retirement)	retirement)
MSDB	41.1	\$0	\$111,914	\$135,981	\$135,981
Corrections	20.2	\$0	\$55,004	\$66,833	\$66,833
MT Youth Challenge	5	\$0	\$13,615	\$16,543	\$16,543
Total	66.3	\$0	\$180,533	\$219,357	\$219,357

22. 1.17-1-508, MCA requires analysis of the statutory appropriation relative to the guidance in 17-1-508 (2), MCA, to be published in the fiscal note. In reviewing and establishing the statutory appropriations in this bill, the legislature shall consider the following guidelines.

	<u>YES</u>	<u>NO</u>
a. The fund or use requires an appropriation.	Yes	
b. The money is not from a continuing, reliable, and estimable source.		No
c. The use of the appropriation or the expenditure occurrence is not predictable and reliable.	Yes	
d. The authority does not exist elsewhere.	Yes	
e. An alternative appropriation method is not available, practical, or effective.	Yes	
f. Other than for emergency purposes, it does not appropriate money from the state general fund.	Yes	
g. The money is dedicated for a specific use.	Yes	
h. The legislature wishes the activity to be funded on a continual basis.	Yes	
i. When feasible, an expenditure cap and sunset date are included.		No

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>				
Department of Revenue				
<u>Expenditures:</u>				
Modification-GenTax System	\$300,000	\$0	\$0	\$0
Transfer to General Fund		\$1,313,791	\$1,596,294	\$1,596,294
TOTAL Expenditures	\$300,000	\$1,313,791	\$1,596,294	\$1,596,294
<u>Funding of Expenditures:</u>				
General Fund (01) (transfer)	\$300,000	\$0	\$0	\$0
State Special Revenue (02) (transfer)	\$0	\$1,313,791	\$1,596,294	\$1,596,294
TOTAL Expenditures	\$300,000	\$1,313,791	\$1,596,294	\$1,596,294
<u>Revenues:</u>				
General Fund (01) (transfer)	\$0	\$1,313,791	\$1,596,294	\$1,596,294
State Special Revenue (02)	\$31,280,730	\$38,007,000	\$38,007,000	\$38,007,000
TOTAL Revenues	\$31,280,730	\$39,320,791	\$39,603,294	\$39,603,294
Department of Administration				
<u>Expenditures:</u>				
Budgeted Transfer		\$559,633	\$679,970	\$679,970
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$559,633	\$679,970	\$679,970
<u>Revenues:</u>				
Other (09) Pension Trust	\$0	\$559,633	\$679,970	\$679,970
Office of Public Instruction				
<u>Expenditures:</u>				
Local Assistance (Per Educator)	\$0	\$29,966,939	\$36,410,706	\$36,410,706
Local Assistance (Retirement GTB)	\$0	\$939,036	\$1,140,956	\$1,140,956
Personal Services (MSDB, Corrections, Military Affairs)	\$0	\$180,533	\$219,353	\$219,353
TOTAL Expenditures	\$0	\$31,086,508	\$37,771,015	\$37,771,015
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$962,584	\$1,169,567	\$1,169,567
State Special Revenue (02)	\$0	\$30,123,924	\$36,601,448	\$36,601,448
TOTAL Funding of Exp	\$0	\$31,086,508	\$37,771,015	\$37,771,015
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$300,000)	(\$208,426)	(\$253,243)	(\$253,243)
State Special Revenue (02)	\$31,280,730	\$6,569,285	(\$190,742)	(\$190,742)
Other (09) Pension Trust	\$0	\$559,633	\$679,970	\$679,970

Effect on County or Other Local Revenues or Expenditures:**Office of Public Instruction**

1. The increase to school district for the quality educator energy for education payment is fully funded by the state and deposited to the school district miscellaneous programs fund thus not affecting the district general fund budget. However, the increase in the quality educator energy for education payment may increase the county retirement fund local property taxes by \$2.4 million in FY 2011 and \$2.9 million in subsequent years.

Long-Term Impacts:**Office of Public Instruction**

1. Oil and natural gas production surtaxes tend to be a volatile revenue source given the market fluctuations in price and production. The amount that schools receive in any one year will rise and fall with the oil and natural gas markets.
2. School districts are not expected to include the quality educator energy for education payments in the collective bargaining contracts.

Technical Notes:**Department of Revenue**

1. Section 1(5) provides that the surtax collected must be deposited in the account in the state special revenue fund, but does not include the late payment interest and penalties (page 1, line 24). This is inconsistent with the amounts reported by the Department of Revenue to the Office of Budget and Program Planning in section 1(6), which includes the late payment interest and penalties (page 1, lines 27 and 28).
2. This bill does not specify which account in the state special revenue fund into which surtax revenues are to be deposited.
3. It is not clear who is to be the administering agency of the state special revenue fund. The bill states that 4.2% of the total surtax and related penalties and interest collected for the prior fiscal year are to be transferred from the state special revenue fund to the state general revenue fund on or before November 15 each year. To eliminate any confusion the bill should indicate who the administering agency is and who is responsible for making the transfer.
4. Department of Revenue accounting will need to record the surtax, and any penalties and interest collected on the surtax in the state special revenue fund.
5. The bill indicates that the Office of Budget and Program Planning determines the amount of the quality educator payments and that the quality educator payments are to be distributed to the agencies and institutions that are to receive them as defined in the bill. It doesn't appear that the quality educator energy for education payments are distributed as the bill indicates the agencies and institutions receiving the payments are statutorily appropriated to them out of the state special revenue fund.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date

**Dedication of Revenue 2011 Biennium****17-1-507-509, MCA.**

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**
This revenue is dedicated to public school districts for support of public education. All Montanans benefit from the education of K-12 students.
- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**
It is dedicated to a single purpose and does not compete with other general fund demands. In addition, the public would be informed of the use of the monies.
- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**
This is new revenue to be used to fund public school quality educators.
- d) **Does the need for this state special revenue provision still exist? ☒ Yes ☐ No (Explain)**
This revenue will provide funding to help support school districts recruitment and retention of highly qualified teachers.
- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**
This dedicated revenue does not affect the legislature's ability to scrutinize budgets, control expenditures, or establish spending priorities. It is an expanded revenue source.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**
Yes, it supports school districts in their efforts to ensure quality public schools by recruiting and retaining qualified staff.
- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**
No effect on efficiencies. The monies will be distributed to school districts and deposited in the school districts miscellaneous programs fund.